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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

800 Data Base Access Tariffs
and the 800 Service Management
System Tariff

CC Docket No. 93-129

REPLY OF THE NYNEX TELEPHONE COMPANIES

New York Telephone Company
and
New England Telephone and
Telegraph Company

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SUMMARY

In this Reply, the NYNEX Telephone Companies ("NYNEX") show that the terms and conditions of NYNEX's 800 data base access tariffs are reasonable. NYNEX also shows that the method that it used to restructure the traffic-sensitive basket and calculate the exogenous cost change was reasonable and consistent with the price cap rules. In developing its exogenous costs, NYNEX only included those costs that were incurred specifically for the implementation and operation of basic 800 data base service.

NYNEX also shows in this Reply that the use of a five-year levelized demand forecast was reasonable. NYNEX has not underestimated demand. In fact, actual data shows that, if anything, NYNEX overestimated the demand for 800 data base service.

NYNEX also did not allocate excessive costs to the interstate jurisdiction. If NYNEX were to use the Part 36 separations rules, most of the investment in 800 data base service would be allocated to the intrastate jurisdiction even though over 80% of the data base queries are interstate.

The Commission should issue an Order terminating this investigation and approving the tariffs as filed.

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REPLY OF THE NYNEX TELEPHONE COMPANIES

The NYNEX Telephone Companies¹ ("NYNEX") hereby
submit this Reply to the Comments on their Direct Case.²

I. INTRODUCTION

On March 1, 1993, NYNEX and other local exchange
carriers ("LECs") filed tariff revisions to introduce 800 data
base access service. The Common Carrier Bureau suspended the
tariffs and designated issues for investigation.

Pursuant to the Bureau's July 19, 1993 Designation
Order, NYNEX filed its Direct Case with the Commission on
September 20, 1993. In its Direct Case, NYNEX showed that:

¹ The NYNEX Telephone Companies are New York Telephone
Company and New England Telephone and Telegraph Company.

² Comments were filed by AT&T, MCI, Sprint, Allnet, ARINC,
CompuServe, Ad Hoc, National Data Corporation and First
Financial Management Corporation.

- (1) the terms and conditions of its 800 data base tariff are reasonable and consistent with previous Commission Orders in this proceeding;
- (2) the method that NYNEX used to restructure the traffic-sensitive basket and calculate the exogenous cost change was reasonable and consistent with the Commission's price cap rules; and
- (3) the exogenous costs claimed by NYNEX were reasonable and consistent with the Commission's price cap rules and earlier Orders in this proceeding.

In their Comments, the commenting parties raise many of the same issues that were raised in the Petitions to Reject or Suspend NYNEX's tariff filing.³ NYNEX will show herein that the commenting parties' arguments are without merit. The Commission should issue an Order terminating this investigation and approving the tariffs as filed.

II. THE TERMS AND CONDITIONS OF THE TARIFF ARE REASONABLE

A. Area of Service Routing

MCI claims that NYNEX's tariffs are not clear as to whether basic 800 data base access service includes area of service (AOS) routing at the NPA-NXX level.⁴ This is not the case. Section 6.7.1(G) of NYNEX's tariff states that the per

³ NYNEX responded to many of these arguments in its April 2, 1993 Opposition to Petitions to Reject or Suspend.

⁴ See MCI Comments, p. 53. Sprint, on the other hand, acknowledges that NYNEX's basic 800 data base access service includes AOS routing at the NPA-NXX level. See Sprint Comments, p.2.

query charge for basic 800 data base access service includes "an area of service which may range from a single NPA/NXX to an area consisting of all LATAs and NPAs in the United States." Similar language appears in Section 13.4.1 of NYNEX's tariff.

MCI and others also argue that the LECs should provide AOS routing at the NPA-NXX level for multiple carriers as part of basic 800 data base access service.⁵ MCI is incorrect. The Commission has ruled that multiple carrier routing for the same 800 number is a vertical feature which carries a separate and additional charge per query.⁶

B. Charges for Undelivered Calls

Several parties complain that NYNEX should not be allowed to assess the query charge when the associated call is not delivered to the interexchange carrier (IC).⁷ The Commission has already ruled that a LEC may assess the query charge even if the LEC does not deliver the associated call to the IC.⁸ The commenting parties have raised no new arguments that warrant revisiting this issue.

⁵ See, e.g., MCI Comments, p. 53; Sprint Comments, p. 3.

⁶ See In the Matter of Provision of Access for 800 Service, 8 FCC Rcd. 907 (1993).

⁷ See, e.g., Sprint Comments, p. 4.

⁸ See In the Matter of Provision of Access for 800 Service, *supra*, 8 FCC Rcd. at 909 ("We also hold that LECs may charge IXCs for completed queries even if the LEC never actually delivers the associated call to the IXC").

III. THE METHOD USED BY NYNEX TO RESTRUCTURE THE TRAFFIC-SENSITIVE BASKET AND CALCULATE THE EXOGENOUS COST CHANGE WAS REASONABLE AND CONSISTENT WITH THE PRICE CAP RULES

In its Designation Order, the Bureau sought comments on three possible methods for restructuring the traffic-sensitive basket while adjusting for exogenous costs whenever a new service category (such as 800 data base access service) within the basket is introduced.

In its Direct Case, NYNEX showed that the method that it used (referred to by the Bureau as Method 2)⁹ was reasonable and consistent with the Commission's price cap rules. NYNEX also noted that Method 3¹⁰ may be the best method for restructuring the traffic-sensitive basket while adjusting for exogenous costs whenever a new service category within the basket is introduced. However, Method 3 does not comply with the price cap rules.¹¹

Several parties urge the Commission to require the LECs to use Method 3. The Commission should first initiate a rulemaking proceeding to allow the entire industry to comment on whether Method 3 should be incorporated into the price cap

⁹ Method 2 involves first making an adjustment for exogenous costs and then restructuring the traffic-sensitive basket to establish a new service category. Method 2 has the effect of raising the upper and lower limits of the service band indices (SBIs) in the traffic-sensitive basket.

¹⁰ Under Method 3, the price cap index (PCI) would be adjusted but the rates, indices, and limits for existing categories within the traffic-sensitive basket would not change.

¹¹ Section 61.47(e) of the price cap rules requires that the SBI limits be changed whenever the PCI changes.

rules on a permanent basis. Alternatively, this issue could be considered as part of the triennial price cap review proceeding. In any event, any revisions to the price cap rules should be applied on a prospective basis only. If rate changes for 800 service are required, the Commission should allow the LECs to recover their exogenous costs and change their rates based on the most recent price cap data submitted to the Commission.¹²

IV. NYNEX ONLY SOUGHT EXOGENOUS TREATMENT FOR COSTS INCURRED SPECIFICALLY FOR 800 DATA BASE SERVICE

In developing its exogenous costs, NYNEX included those costs that were incurred specifically for the implementation and operation of basic 800 data base service: the SCPs, the 800/SMS, the links between the SCPs and the SMS, and the links between the STPs and SCPs.¹³ Unlike other LECs, NYNEX did not seek exogenous treatment for the costs of the SSP hardware and/or software, tandem upgrades, repair centers for 800 service, or the STPs.¹⁴

¹² It would be extremely burdensome for the LECs to recalculate their rates and exogenous costs retroactively and for the Commission staff to review the submissions. Every price cap filing made with the Commission since March 1, 1993 would have to be recalculated.

¹³ See In the Matter of Provision of Access for 800 Service, supra, 8 FCC Rcd. at 911.

¹⁴ In Transmittal No. 184, filed April 29, 1993, NYNEX removed overhead expenses from its exogenous costs. Thus, Sprint's argument that NYNEX has failed to demonstrate the reasonableness of overhead costs included in its 800 data base rates is obviously moot. See Sprint Comments, p. 5.

MCI contends that the LECs' SMS costs included as exogenous appear unreasonable, and that NYNEX and the other LECs have "utterly failed to respond" to the Commission's designation Order on this issue.¹⁵ MCI is incorrect.

In its Direct Case, NYNEX clearly showed how its SMS costs were developed.¹⁶ Furthermore, as MCI acknowledges,¹⁷ NYNEX recently revised those calculations to reflect reduced rates for the 800 Number Administration and Service Center.¹⁸ Thus, NYNEX's SMS costs included as exogenous are not unreasonable and have been fully supported.

V. NYNEX'S USE OF LEVELIZED DEMAND WAS REASONABLE

AT&T argues that "NYNEX improperly used levelized demand over a five-year period to compute their exogenous costs."¹⁹ AT&T claims that this method is inappropriate because "the price cap mechanism is self-adjusting for the effects of demand."²⁰ AT&T's arguments are without merit.

While the Commission's rules require use of base period demand for rate calculation, the use of levelized demand for the calculation of exogenous costs is entirely reasonable.

15 MCI Comments, p. 37.

16 See Direct Case of the NYNEX Telephone Companies, dated September 20, 1993, at Attachment A, p. 2.

17 MCI Comments, at p. 38 n.103.

18 See NYNEX Ex Parte, dated February 4, 1994, p. 2.

19 AT&T Comments, p. 15.

20 Ibid.

As NYNEX demonstrated in its Direct Case, if NYNEX had multiplied the cost per-query by the first year demand rather than by levelized demand, total exogenous cost would have been approximately the same.²¹ There is thus no merit to AT&T's contention that NYNEX will overrecover approximately \$12 million or that the PCI is improperly impacted by \$1,346,304. NYNEX's use of levelized demand in calculating exogenous costs was entirely reasonable.

VI. NYNEX'S DEMAND FORECAST WAS REASONABLE

Several parties argue that NYNEX's demand forecast for 800 data base service was too conservative, thereby producing inflated rates.²² These parties are incorrect.

The accuracy of NYNEX's demand forecast of 15 percent per year growth is borne out by actual year over year growth in demand in 800 call volumes.²³ The actual growth rate for 800 calls in 1993 was less than 13 percent. This pattern continued during the first two months of 1994, the most recent period for

²¹ This is so because the unit costs per query using first year demand is higher than the unit costs per query using levelized demand. Multiplying these higher unit costs by the lower first year demand level would have produced approximately the same amount of exogenous costs. NYNEX also demonstrated in its Direct Case that use of levelized demand to calculate SMS costs produced results virtually identical to those which would have been produced by use of first year demand. (Direct Case, p. 11 n.21).

²² Sprint Comments, pp. 14-15; MCI Comments, pp. 43-44; CompuServe Comments, p. 8.

²³ NYNEX used historical 800 call growth data to formulate its forecast.

which data is available.²⁴ Moreover, while ARINC is correct that the historical data used by NYNEX and the other LECs to formulate their demand projections did not include blocked 800 NXX calls,²⁵ that omission does not, by itself, render the demand forecast too conservative. In fact, as demonstrated above, actual demand for 800 data base service has been less than what was forecasted.

Finally, Allnet's argument that "the assumptions used to split demand between basic and vertical features were incorrect and discriminatory" is without merit and irrelevant to NYNEX.²⁶ NYNEX's rate structure differs from that of some other LECs in that all users of 800 data base service (both basic and vertical features) are assessed a basic query charge while those who use vertical features are assessed an additional charge for the use of the specific vertical feature used by the customer. This structure renders the demand split between basic and vertical features irrelevant in NYNEX's rate setting. As discussed above, the demand estimates used by NYNEX to determine its rates have proven, if anything, to be too high. Thus, the basic query rates based on those estimates are not excessive and no rate reduction is warranted.

²⁴ Furthermore, a recent study submitted by an outside consultant projects a long-term growth rate of 7 percent by 1998. See, The Bell Operating Companies' SMS/800 Tariff Transmittal No. 7 (March 31, 1994).

²⁵ ARINC Comments, p. 8.

²⁶ Allnet Comments, pp. 7-8.

VII. NYNEX'S COST ALLOCATION METHOD WAS APPROPRIATE

MCI argues that NYNEX and other LECs allocated excessive costs to the interstate jurisdiction,²⁷ and requests that the Commission require NYNEX to use investment allocators in accordance with the Commission's Part 36 rules.²⁸ NYNEX has allocated costs correctly, and MCI's argument should be rejected.

Use of the Part 36 separations rules to allocate 800 data base investments is entirely inappropriate. That method would not achieve the Commission's goal that LECs recover 800 data base service costs from those who use the service. If the Part 36 separations rules were used to allocate costs between jurisdictions, most of the investment would be allocated to the intrastate jurisdiction, despite the fact that most of the demand, as some parties admit,²⁹ is interstate. As a result, intrastate customers would pay vastly higher rates for the service, thereby subsidizing interstate customers, who comprise the large majority of service users.³⁰ It is, therefore,

27 MCI Comments, p. 26.

28 Id. at p. 29.

29 See Ad Hoc Comments, p. 10.

30 An example of the distortions resulting from use of the separations method of allocations can be observed by examining the SCP investments for New York Telephone Company (NYT). The NYT SCPs are used exclusively for 800 data base service. The total SCP investment is \$4,022,871. (See NYT Appendix A Errata p. A-2 dated February 4, 1994). Part 36 rules allocate just \$799,397, or approximately 19.9%, to interstate 800 database service. The five year interstate and intrastate service forecast shows a levelized forecast demand of

inappropriate to use Part 36 rules in calculating 800 database costs, particularly for price cap LECs whose rates are no longer determined by separations-based revenue requirements.

VIII. NYNEX'S ADMINISTRATIVE COSTS ARE FULLY SUPPORTED

MCI states that NYNEX and other LECs have included administrative costs that have not been specifically identified and that these costs should be treated as overhead and denied exogenous treatment.³¹ MCI's argument is without merit and should be rejected by the Commission.

NYNEX has used a consistent methodology for computing direct and overhead carrying charge factors, and has fully justified that methodology in the ONA proceedings. The

30 (Footnote Continued From Previous Page)

2,744,114,202 queries. (See WS Dmd 1-1 in the NYNEX Compliance Filing dated March 15, 1994). This demand is comprised of 2,218,258,501 interstate queries and 525,855,701 intrastate queries or 80.8% interstate (see also WS EXG 1-1 col. F from Compliance Filing dated March 15, 1994 and NYT Appendix A, Errata p. A-2) and 19.2% intrastate. Utilizing the approach advocated by MCI, the interstate SCP investment (\$799,397) would first be divided by the interstate demand (2,218,258,501) to derive an interstate SCP unit investment of \$.0003336. Next the direct carrying charge factor of .322530 would be applied to derive a SCP unit cost of \$.00011632 for an interstate 800 data base basic query. Using the same approach to calculate an intrastate SCP unit cost, the intrastate total investment (\$4,022,871 - \$799,397 = \$3,223,474) would be divided by the intrastate demand (525,855,701) to derive a SCP unit investment of .006129. This unit investment multiplied by the same carrying charge factor of .322530 results in an intrastate SCP unit cost per 800 data base basic query of \$.001977. Thus, this method results in an intrastate SCP cost per query that is nearly 17 times higher than its identical interstate equivalent.

31 MCI Comments, pp. 34-35.

Administrative factor used in developing the 800 data base costs contains several expense categories, including customer operations expense for operator service, local business office, revenue accounting - other, and marketing. These categories contain direct expenses, not overheads, and these administrative expenses are thus properly included in the calculation of exogenous costs.

IX. CONCLUSION

For the reasons set forth above, the Commission should issue an Order terminating this investigation and approving NYNEX's tariff as filed.

Respectfully submitted,

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Dated: May 5, 1994

CERTIFICATE OF SERVICE

I certify that copies of the foregoing REPLY OF THE
NYNEX TELEPHONE COMPANIES, CC Docket No. 93-129, were served on
each of the parties listed on the attached Service List, this
5th day of May, 1994, by first class United States mail,
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